

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carlo Vescovi	Team: Squad #14	CCRB Case #: 202100053	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 12/12/2020 11:00 PM	Location of Incident: Front of § 87(2)(b)	Precinct: 60	18 Mo. SOL 6/12/2022	EO SOL 6/12/2022	
Date/Time CV Reported Mon, 01/04/2021 11:46 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/04/2021 11:46 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Timothy Brovakos	00000	943025	060 PCT
2. POM Joseph Mcdonald	03493	964642	060 PCT
3. POM Khurram Zubair	24264	962891	060 PCT
4. PO Mubbashar Zahid	03267	965634	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(g), § 87(4-b)
B.POM Joseph Mcdonald	Abuse: Police Officer Joseph Mcdonald drew his gun.	§ 87(2)(g), § 87(4-b)
C.POM Khurram Zubair	Abuse: Police Officer Khurram Zubair drew his gun.	§ 87(2)(g), § 87(4-b)
D.LT Timothy Brovakos	Force: Lieutenant Timothy Brovakos pointed his gun at § 87(2)(b)	§ 87(2)(g), § 87(4-b)
E.PO Mubbashar Zahid	Force: Police Officer Mubbashar Zahid pointed his gun at § 87(2)(b)	§ 87(2)(g), § 87(4-b)
F.LT Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos stopped § 87(2)(b)	§ 87(2)(g), § 87(4-b)
G.PO Mubbashar Zahid	Abuse: Police Officer Mubbashar Zahid stopped § 87(2)(b)	§ 87(2)(g), § 87(4-b)
H.LT Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos frisked § 87(2)(b)	§ 87(2)(g), § 87(4-b)
I.PO Mubbashar Zahid	Abuse: Police Officer Mubbashar Zahid frisked § 87(2)(b)	§ 87(2)(g), § 87(4-b)
J.LT Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)	§ 87(2)(g), § 87(4-b)
K.LT Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos failed to provide § 87(2)(b) with a business card.	§ 87(2)(g), § 87(4-b)
L.PO Mubbashar Zahid	Abuse: Police Officer Mubbashar Zahid failed to provide § 87(2)(b) with a business card.	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

Case Summary

On December 14th, 2020, § 87(2)(b) called 911 and was transferred to the Internal Affairs Bureau where he filed the following complaint on behalf of himself and his friend, § 87(2)(b). The CCRB received this complaint on January 4th, 2021.

On December 12th, 2020, at approximately 11:45 pm, § 87(2)(b) exited the driver's seat of a 2020 Toyota Pathfinder in front of § 87(2)(b) in Brooklyn, and his passenger, § 87(2)(b) switched from the passenger's seat into the driver's seat. Lieutenant Timothy Bravokos, accompanied by Police Officers Mubbashar Zahid, Khurram Zubair, and Joseph McDonald, all of the 60th Precinct, allegedly conducted a vehicle stop of § 87(2)(b) vehicle (**Allegation A: Abuse of Authority**, § 87(2)(g) PO McDonald and PO Zubair allegedly drew their guns (**Allegation B-C, Abuse of Authority**, § 87(2)(g) Lieutenant Bravokos and PO Zahid allegedly pointed their guns at § 87(2)(b) (**Allegation D-E: Force**, § 87(2)(g) While PO Zubair and PO McDonald conducted the vehicle stop, Lieutenant Bravokos and PO Zahid stopped and frisked § 87(2)(b) (**Allegation F-I, Abuse of Authority**, § 87(2)(g) After the frisk concluded, all officers returned to their vehicle. § 87(2)(b) followed them to their vehicle, where Lieutenant Bravokos told § 87(2)(b) "You don't want to get arrested...you're going to get arrested," (**Allegation J: Abuse of Authority**, § 87(2)(g) Lieutenant Bravokos and PO Zahid failed to provide § 87(2)(b) with a business card (**Allegation K: Abuse of Authority**, § 87(2)(g) **Allegation L: Abuse of Authority**, § 87(2)(g) No arrests or summonses resulted from this incident.

§ 87(2)(g), § 87(4-b)

BWC was received for this case, the relevant aspects of which will be address below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Timothy Bravokos stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) testified (BR 01, BR 10) that on December 12th, 2020, he was the operator of a 2020 Toyota Pathfinder in which § 87(2)(b) was an occupant. After driving for approximately one hour, § 87(2)(b) stopped the vehicle directly in front of his residence, located at § 87(2)(b) in Brooklyn in order to drop himself off. § 87(2)(b) testified that neither he nor § 87(2)(b) committed any vehicle infractions at this time or prior to stopping. After approximately five seconds, § 87(2)(b) and § 87(2)(b) exited the vehicle, and § 87(2)(b) entered the driver's seat. § 87(2)(b) believed the vehicle's engine was still on. After § 87(2)(b) exited the vehicle, Lieutenant Bravokos conducted a vehicle stop of § 87(2)(b).

§ 87(2)(b) declined to participate in this investigation (see IAs for contact attempts).

Lieutenant Bravokos (BR 02), PO McDonald (BR 03), PO Zahid, (BR 04) and PO Zubair (BR 05) each testified that they observed § 87(2)(b) vehicle double parked. PO Zubair testified that he was the officer who approached § 87(2)(b) in the driver's seat. PO Zubair told § 87(2)(b) that he was double parked and blocking vehicular traffic. PO Zubair used his discretion not to issue any summonses.

PO Zubair's BWC (BR 06) captures the entirety of the vehicle stop. Lieutenant Bravokos turns the police vehicle left onto West 28th Street at 00:25 seconds and at 00:51, Lieutenant Bravokos stops the police vehicle and initiates the vehicle stop. At 00:53 on the player timestamp, § 87(2)(b) vehicle is captured double parked in front of § 87(2)(b) § 87(2)(b) is captured near the window of the driver's seat, in which § 87(2)(b) is seated.

Given that Lieutenant Bravokos was the highest-ranking officer on scene, the vehicle stop allegation has been pled to him.

Per NY State VTL Section 1202 (BR 07) except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall stop, stand, or park a vehicle, on the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street.

Lieutenant Brovakos, PO Zubair, PO McDonald, and PO Zahid are consistent in their testimony that the basis of the vehicle stop was that § 87(2)(b) vehicle was double parked. This testimony is corroborated via PO Zubair's BWC, which captures § 87(2)(b) vehicle double parked while he is in the driver's seat. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Joseph McDonald drew his gun.

Allegation (C) Abuse of Authority: Police Officer Khurram Zubair drew his gun.

Allegation (D) Force: Lieutenant Timothy Brovakos pointed his gun at § 87(2)(b)

Allegation (E) Force: Police Officer Mubbashar Zahid pointed his gun at § 87(2)(b)

§ 87(2)(b) testified that upon exiting the vehicle, PO McDonald, PO Zubair, PO Zahid, and Lieutenant Brovakos had their handguns out by their sides. PO Zahid and Lieutenant Bravakos walked towards § 87(2)(b) and subsequently pointed their guns at him.

Lieutenant Brovakos testified he never drew or pointed his weapon at § 87(2)(b) PO Zahid, PO McDonald, and PO Zubair each testified they never drew or pointed their handguns during this incident.

At 01:22 on the player timestamp of Lieutenant Brovakos' BWC (BR 08), both his left and right hands are visible on screen. Lieutenant Brovakos is not captured holding or pointing his gun. As Lieutenant Brovakos and PO Zahid approach § 87(2)(b) Lieutenant Bravakos' BWC also captures both PO Zahid's left and right hands and PO Zahid is not captured with his gun drawn. At no point during the interaction are either Lieutenant Brovakos or PO Zahid captured on Lt. Bravakos' BWC pointing a gun at § 87(2)(b)

At 00:53 on PO McDonald's BWC (BR 09), both his hands are captured, and PO McDonald does not have his gun drawn, nor is he seen doing so at any point later in the BWC. At 00:52 on PO Zubair's BWC, both of PO Zubair's hands are captured, and he is not holding a gun in either hand, nor is he seen doing so at any other point in the BWC.

At no point on PO Zubair's, PO McDonald's, or Lieutenant Bravakos' BWC videos are any of them captured holding or pointing their guns, and they are each captured at the beginning of the vehicle stop with empty hands. This is consistent with Lieutenant Brovakos', PO Zubair's, PO Zahid's, and PO McDonald's testimonies that they did not draw or point their guns at any point during this incident. § 87(2)(g)

Allegation (F) Abuse of Authority: Lieutenant Timothy Brovakos stopped § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer Mubbashar Zahid stopped § 87(2)(b)

Allegation (H) Abuse of Authority: Lieutenant Timothy Brovakos frisked § 87(2)(b)

Allegation (I) Abuse of Authority: Police Officer Mubbashar Zahid frisked § 87(2)(b)

Lieutenant Brovakos testified that prior to exiting his vehicle, as he was pulling up behind § 87(2)(b) he observed § 87(2)(b) standing outside § 87(2)(b) vehicle, directly next to the driver's side door. Lieutenant Brovakos observed § 87(2)(b) who wore a long coat, put his right and left hand into his waistband area, first in the center, then to the sides, then back to the middle again. Lieutenant Bravakos could not say exactly § 87(2)(b) hands were beside his "waistband area", as he could not see them because of the long coat. § 87(2)(b) then shifted his pelvis by moving either his left or right foot back and turned his torso outwards towards the adjacent sidewalk approximately 3-5 yards away. At this point, § 87(2)(b) put up both of his arms

outstretched, parallel with the ground, and walked towards the sidewalk. § 87(2)(b) appeared to keep his arms as far away from his waistband area as he could, which Lieutenant Bravakos took to mean that § 87(2)(b) did not want any officers to search his waistband area. As a result of these actions – § 87(2)(b) touching his waistband area, turning his torso, and outstretching arms – Lieutenant Bravakos believed that § 87(2)(b) had a gun. Lieutenant Bravakos had no memory of any bulges on § 87(2)(b) person. Lieutenant Bravakos patted down § 87(2)(b) left and right areas of his waistband, including any overlying jacket pockets, to search for a potential firearm.

PO Zahid testified that at some point after exiting his vehicle, he observed § 87(2)(b) with his hands near his waistband. PO Zahid observed a bulge that resembled a weapon near § 87(2)(b) waistband area but could not be more specific and did not know if the weapon was a knife or a gun. § 87(2)(b) hands near his waistband and the observation of a bulge led PO Zahid to believe that § 87(2)(b) was potentially robbing the driver of the vehicle, § 87(2)(b). Upon observing PO Zahid, § 87(2)(b) then grabbed an area near or around his waistband. As a result of § 87(2)(b) hands near his waistband, the bulge near § 87(2)(b) waistband, and § 87(2)(b) grabbing his waistband upon sight of the officers, PO Zahid believed that § 87(2)(b) was armed. At this point, PO Zahid immediately frisked him, but was not able to say where he frisked. PO Zahid did frisk the bulge, which he determined was not a weapon but a group of undetermined objects.

Lieutenant Brovakos' BWC captures him arriving in his vehicle at 00:54 on the player timestamp, at which point § 87(2)(b) is standing on the street near the driver's side window of § 87(2)(b) vehicle. § 87(2)(b) is inside the vehicle. By the time Lieutenant Brovakos exits his vehicle at 00:56, § 87(2)(b) is already standing between two parked cars heading onto the adjacent sidewalk. § 87(2)(b) hands are by his sides. Lieutenant Brovakos' BWC does not capture § 87(2)(b) reaching towards his waistband, turning his torso as described by Lieutenant Brovakos or PO Zahid. Lieutenant Brovakos follows § 87(2)(b) onto the sidewalk and reaches him within five seconds, at 1:03 on the player timestamp. PO Zahid is a few steps in front of Lieutenant Brovakos, less than three feet away from § 87(2)(b). § 87(2)(b) arms are outstretched by his sides, away from his waistband. Lieutenant Brovakos states, "Why are you running off the car?" § 87(2)(b) responds, "What are you running up on me for?" At 1:09, Lieutenant Brovakos reaches towards § 87(2)(b) with his right arm and frisks § 87(2)(b) left pants pocket. Lieutenant Brovakos continues to frisk § 87(2)(b) up the left side of his jacket towards his left armpit. At 1:14, the video captures tugging movements to the right side of § 87(2)(b) jacket. Lieutenant Brovakos states, "I'm not running up on you, I'm stopping the car." At 1:19, Lieutenant Brovakos states, "I'm just making sure you don't have a gun on you." § 87(2)(b) responds, "I don't have a gun on me," and removes his jacket, placing it on the ground. The BWC does not capture any observable bulges around § 87(2)(b) waistband. PO Zahid is not captured frisking § 87(2)(b) down at any point.

§ 87(2)(b) testified that immediately upon exiting § 87(2)(b) vehicle, Lieutenant Brovakos and PO Zahid approached him on the sidewalk, at which point they told him to freeze. § 87(2)(b) could not recall what if anything he had in his pockets, but was wearing a coat. § 87(2)(b) did not raise any allegations of frisks.

As per *People v. De Bour*, 40 N.Y.2d 210 [1976], (BR 11), an officer may forcibly stop and detain a person if the officer has reasonable suspicion that the person has committed, is committing or is about to commit a felony or misdemeanor. An officer may frisk the individual if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed.

Per *People v. Barreto*, 161 A.D.2d 305 [1990], (BR 12) officers observed an individual run across the street and grab a bulge near his waistband while doing so. Officers subsequently frisked the individual. The court ruled that the observation of a bulge near a person's waistband, and subsequent motions to grab said bulge, were insufficient to justify a frisk absent additional indicia of criminal activity. While officers had a legitimate basis for exercising their right to inquire, they exceeded the permissible scope of police intrusion by immediately grabbing the defendant's waist. Furthermore, per *People v. Barreto*, behavior that susceptible of innocent as well as guilty interpretation will not generate reasonable suspicion that criminality is afoot.

According to Lieutenant Brovakos' testimony, his belief that § 87(2)(b) was armed, and his justification for a stop and subsequent frisk of § 87(2)(b) stemmed only from the following behaviors: § 87(2)(b) grabbing his waistband, turning his torso outward, and outstretching his arms away from his waistband. Lieutenant Brovakos had no memory of any bulges on § 87(2)(b) person.

While PO Zahid believed that § 87(2)(b) was robbing § 87(2)(b) because he observed an unspecified bulge near § 87(2)(b) waistband, and § 87(2)(b) hands were near his waistband at the moment PO Zahid and Lieutenant Brovakos approached him near § 87(2)(b) vehicle, this observation was not shared by Lieutenant Brovakos, and § 87(2)(b) behavior of standing near § 87(2)(b) vehicle with an bulge near his waistband, absent a more particularized description of a weapon or indication of criminal activity, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (J) Abuse of Authority: Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)

The investigation established the following facts: § 87(2)(b) spoke to Lieutenant Brovakos through the driver's side window once he and the officers returned to their police vehicle. It is undisputed that Lieutenant Brovakos told § 87(2)(b) "You don't want to get arrested. You're going to get arrested." It is undisputed that § 87(2)(b) was not blocking the path of the police vehicle at the time Lieutenant Brovakos issued this statement.

Lieutenant Brovakos testified that he made this remark to § 87(2)(b) because he believed that § 87(2)(b) was going to stand in front of the police vehicle and not allow the officers to leave the scene. Lieutenant Brovakos believed this because § 87(2)(b) was standing between the unmarked police vehicle and the legally parked vehicle next to it, and had § 87(2)(b) walked in front of the vehicle, he could have been considered under arrest. Lieutenant Brovakos confirmed that § 87(2)(b) was not doing anything criminal at the time of this statement, but rather Lieutenant Brovakos was attempting to deescalate by means of warning § 87(2)(b)

Lieutenant Brovakos' BWC captures § 87(2)(b) approximately four feet from the driver's window of the police vehicle at 2:20 on the player time stamp. § 87(2)(b) asks repeatedly and in an elevated tone, "Why'd you just run up on me?" § 87(2)(b) is within four feet of Lieutenant Brovakos' driver's side window, but the video does not capture him blocking the path of the vehicle. At 2:24 on the player timestamp, Lieutenant Brovakos states, "You don't want to get arrested... You're going to get arrested." Lieutenant Brovakos reverses the police vehicle and drives away without issue at 2:33 on the player timestamp. As Lieutenant Brovakos is reversing the vehicle, § 87(2)(b) is captured stationary, still approximately four feet away, standing perpendicular to the police vehicle.

NYPD Patrol Guide 208-01 (BR 13) states that members of service may make arrests without a warrant under the following conditions: for an offense when reasonable cause to believe offense committed in his presence, or for a crime (within presence or not) and reasonable cause exists that arrested person committed the crime, for a petty offense in his presence (violations and traffic infractions).

Lieutenant Brovakos' testimony that § 87(2)(b) was not committing any crime at the time he threatened to arrest him is consistent with his BWC footage. Although § 87(2)(b) is not captured on the footage at exact the moment the threat is made, at no point does § 87(2)(b) direction of travel come close to blocking Lieutenant Brovakos' police vehicle. On the BWC footage, § 87(2)(b) is captured standing stationary, approximately four feet away from the police vehicle as Lieutenant Brovakos enters the car, and then again in the same location as Lieutenant Brovakos pulls the vehicle away. Based on the available BWC footage, the investigation determined by a preponderance of evidence that § 87(2)(b) actions did not amount to reasonable cause to believe that § 87(2)(b) was going to commit or had committed a crime, such as blocking Lieutenant

Brovakos' vehicle from leaving the location. § 87(2)(g)

Allegation (K) Abuse of Authority: Lieutenant Timothy Brovakos failed to provide § 87(2)(b) with a business card.

Allegation (L) Abuse of Authority: Police Officer Mubbashar Zahid failed to provide § 87(2)(b) with a business card.

It is undisputed that Lieutenant Brovakos and PO Zahid stopped and frisked § 87(2)(b). § 87(2)(b) testified that at the conclusion of the incident, no officers offered him a business card.

Lieutenant Brovakos testified that PO Zahid offered § 87(2)(b) a business card at the conclusion of the incident, as Lieutenant Bravakos was returning to the police vehicle. Lieutenant Bravakos did not personally offer § 87(2)(b) a business card. Lieutenant Bravakos attributed his failure to provide a business card to § 87(2)(b) repeatedly interrupting him. In Lieutenant Bravakos' understanding, a business card should be issued to a civilian during any level three street encounter.

PO Zahid testified that after the frisk concluded, § 87(2)(b) acted irate and screamed over and over. PO Zahid tried to offer § 87(2)(b) a business card on his way back to the patrol vehicle, stating in sum and substance, "I have a contact card if you want it." § 87(2)(b) did not respond and kept yelling and did not take PO Zahid's business card. In PO Zahid's understanding, a business card should be offered to any individual that is frisked in a street stop scenario. PO Zubair testified he did not know if § 87(2)(b) was issued a business card.

Lieutenant Brovakos' BWC does not capture PO Zahid offering § 87(2)(b) a business card. However, from 1:46-2:09 on the player time stamp, PO Zahid is not visible as he walks back to the police vehicle, during which time it is possible that PO Zahid could have offered a card. § 87(2)(b) is yelling, "We didn't do anything," repeatedly. PO Zahid does not have any BWC activations that could have captured his actions. Consistent with Lieutenant Brovakos' testimony, Lieutenant Brovakos is not captured offering § 87(2)(b) a business card.

Per Administrative Code 14-174 (BR 23), at the conclusion of any frisk and searches of person that do not result in summons or arrest, an officer shall offer a business card to such person. Patrol Guide Procedure 203-09 (BR 22) states that a business card is to be offered for any stop where an officer has an individualized, reasonable suspicion that the person has committed, is committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter, and any frisk.

Lieutenant Brovakos testified that he stopped and frisked § 87(2)(b) and did not provide him with a business card, consistent with his body worn camera footage. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

[illegible]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO McDonald has been a member of service for four years and this is the first CCRB complaint to which he has been a subject.
- PO Zubair has been a member of service for five years and has been a subject in three CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- PO Zahid has been a member of service for three years and has been a subject in three CCRB complaints and 11 allegations, none of which were substantiated. § 87(2)(g)
- Lieutenant Bravakos has been a member of service for 14 years and has been a subject in 34 CCRB complaints and 121 allegations, of which two were substantiated:
 - 201905132 involved a substantiated allegation of discourtesy (word) against Lieutenant Bravakos. The Board recommended Command Level Instruction and the NYPD imposed instruction.
 - 201500206 involved a substantiated allegation of a vehicle search against Lieutenant Bravakos. The Board recommended Command Discipline B and the NYPD imposed formalized training. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of November 8th, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (BR 18).

	[§ 87(2)]	
	(b) [§§ 86(4)]	
	(3)&(4)	
	113	
	87(2)	
	(c)	

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 14

Investigator:	<u>C.V.</u>	<u>Inv. Carlo Vescovi</u>	<u>12/28/21</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Cassandra Fenkel</u>	<u>IM Cassandra Fenkel</u>	<u>April 4, 2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date